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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
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11 STEVEN WIMBERLY, SR., ) No. ED CV 08-00605-DSF (VBK)  
12 )  
13 Petitioner, ) ORDER (1) ACCEPTING AND ADOPTING  
14 ) THE REPORT AND RECOMMENDATION OF  
15 v. ) THE UNITED STATES MAGISTRATE  
16 ) JUDGE, AND (2) DISMISSING THE  
17 F. B. HAWS, ) PETITION FOR WRIT OF HABEAS  
18 ) CORPUS  
19 Respondent. )  
20 \_\_\_\_\_ )  
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22 Pursuant to 28 U.S.C. §636, the Court has made a de novo review  
23 of the Petition for Writ of Habeas Corpus ("Petition"), Respondent's  
24 Motion to Dismiss, Petitioner's Opposition, Respondent's Answer, all  
25 of the records herein and the Report and Recommendation of the United  
26 States Magistrate Judge ("Report").  
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1       **IT IS ORDERED** that: (1) the Court accepts and adopts the Report  
 2 and Recommendation, (2) the Court declines to issue a Certificate of  
 3 Appealability ("COA");<sup>1</sup> and (3) Judgment be entered denying and  
 4 dismissing the Petition with prejudice.

5                   9/13/10



6 DATED: \_\_\_\_\_

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 DALE S. FISCHER  
 UNITED STATES DISTRICT JUDGE

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 21       <sup>1</sup> Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the  
 22 applicant has made a substantial showing of the denial of a  
 23 constitutional right." The Supreme Court has held that, to obtain a  
 24 Certificate of Appealability under §2253(c), a habeas petitioner must  
 25 show that "reasonable jurists could debate whether (or, for that  
 26 matter, agree that) the petition should have been resolved in a  
 27 different manner or that the issues presented were 'adequate to  
 28 deserve encouragement to proceed further'." Slack v. McDaniel, 529  
 U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks  
 omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.  
 1029 (2003). After review of Petitioner's contentions herein, this  
 Court concludes that Petitioner has not made a substantial showing of  
 the denial of a constitutional right, as is required to support the  
 issuance of a COA.